IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 21886 of 1995

Between:

Kattamuri Lakshman Rao S/o.Ramanayya
D.No.32-93-2 , Burujupeta ,
Visakhapatnam.

..... PETITIONER

AND

1 The District Collector, Visakhapatnam.
2 Aganampudi Cooperative House Building society Rep by its Secretary, Krishnanagar , Maharanipeta , Visakhapatnam -2
3 Mandal Revenue Officer, Pendurthi , Visakhapatnam.
4 Commissioner of Land Revenue, Govt of A.P Nampally , Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ order or direction particularly one in the nature of Mandamus declaring the action of the Revenue Officials in appropriating the land bearing S.No.22/3, S.No.22/4 in an extent of Ac.1.22 cents and Ac.1.76 cents of Kurmannapalem Village of Visakhapatnam district belonging to the petitioner and other similarly placed persons shown in the annexure in favour of the 2nd respondent - society is vitiated by arbitrariness, fraud and contrary to the law procedural and substantial and direct the revenue authorities to keep them in possession an enjoyment by holding a detailed enquiry from the inception of the fraud and also to take necessary action against all the persons responsible.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondents 1,3 and 4: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Revenue. Perused the material placed before me.

The case of the petitioner is that one Ravada Nagamaiah was given Patta No. 34 in respect of the land bearing Sy. No. 22/3 and 22/4 in an extent of Ac.1.22 cents and Ac.1.76 cents of Kurmannapalem, Visakhapatnam, which is a *zeroyathi* land. During resurvey of the land, inadvertently, the same was mentioned as *Banjara*. Accordingly, the said Nagamaiah was given D- form patta. On a representation, the revenue officials also noticed the same. Later, the said Nagamaiah sold the said land to Felomina and Jaganmohanrao, who in turn sold the same to the present petitioner under a registered sale deed, in the year 1969.

It is his grievance that the revenue authorities started interfering with the possession of the said land. On that the petitioner filed O.S. No. 1222 of 1985 on the file of the I Additional District Munsif, Visakhapatnam for declaration of title over the said land and also for an injunction. In that suit, the MRO gave evidence that the Government noticed the alienation in the year 1969 itself, but the patta was cancelled in 1982 and took possession of the said land and again sold it to the 2nd respondent herein by collecting market value. It is further submitted that the petitioner filed I.A. No. 1251 of 1991, seeking permission to withdraw the suit with liberty to file a fresh suit and accordingly, the suit was dismissed as withdrawn. According to the petitioner, the nature of the land is *Zeroyathi* and

giving D-form patta does not alter the nature of the land.

However, the petitioner contends that he purchased the land in question in the year 1969 and knowing the factum of purchase of the land by the petitioner and some others in the year 1969 itself, the respondents have no right to cancel the patta in the year 1982. As the respondents are trying to evict him from the said land, the petitioner filed the present writ petition.

The 2nd respondent, denying the material averments of the writ petition, filed a detailed counter affidavit.

However, when once the land is noted as Banjara, the petitioner cannot question the nature of the land since the nature of the land i.e. whether it is a *zeroyathi* or *banjara* has to be adjudicated on evidence and proof, which cannot be decided at this stage as this Court under Art. 226 of The Constitution of India cannot go into such details. Hence the writ petition needs no interference and accordingly, the same is liable to be dismissed.

In the result, the writ petition is dismissed. No costs.

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kvsn 27-01-2005

To

1 The District Collector, Visakhapatnam.
2 Mandal Revenue Officer, Pendurthi , Visakhapatnam.

3 Commissioner of Land Revenue, Govt of A.P
Nampally , Hyderabad.

4 Two copies to the GP for Land Revenue, High Court buildings, Hyderabad.

5 Two CD copies.